

FILED IN CLERK'S OFFICE
U.S.D.C. AtlantaUNITED STATES FEDERAL DISTRICT COURT
For the
NORTHERN DISTRICT OF GEORGIA

DEC 29 2010

JAMES N. HATTEN, CLERK
Deputy Clerk

THE UNITED STATES OF AMERICA (E.U.O.S.T.),
Top to Bottom Renovations, LLC,
EMC Search, LLC, Favre & Bennett, LLC and
Those Who Find Themselves Similarly Situated

Case No.:

1:10-CV-3757-TCB

V.

SUNTRUST MORTGAGE; OLD REPUBLIC;
FIDELITY NATIONAL FINANCIAL; GOLDMAN
SACHS GROUP; SUNTRUST ROBINSON
HUMPHREY; SUNTRUST INVESTMENTS;
SUNTRUST BANK; MOVANT 26 AND ALL
DEFENDANT(S) NAMED IN 08-85264-MHM,
09-9069 AND 09-9075

MOTION FOR
JUDGMENT BY DEFAULTStipulated OrderAMENDED PETITION FOR PAYMENT
OF UNCLAIMED FUNDS**MOTION FOR JUDGMENT BY DEFAULT**

THIS ACTION was tried by a jury with Judge Patsy Porter Presiding, and the jury has rendered a verdict in favor of the Plaintiff(s) Exhibit "A" and THE CLERK OF COURT are hereby ordered to enter the Judgment as so stated and in the Stipulated Motion for Relief, Chapter 13 Undo Hardship Discharge, and Granting the Judgment By Default.

WHEREFORE, The Plaintiff, Glenn R. Favre, Pro-Se, shall recover from the defendant(s) named in BK-08-85264-MHM & ADVESARY CASES 09-9069 & 09-9075 in the amount of One Hundred and Twelve Million dollars (\$112,000,000.00), which includes prejudgment & 1,000,000.00 from 4/9/2009 at 18% (Percentage rate per annum) X (7 Defendant(s) X 4 Properties. Payable to the Managing Partner, Glenn R. Favre (Plaintiff).

SunTrust Mortgage, Inc. and Cox Lumber d/b/a (Defendant) & Favre & Bennett (Plaintiff) HD Supply, Fidelity National Title and Federal Contracts Disputes From Top to Bottom Renovations, LLC Cases 2-6 (Percentage rate per annum) One Hundred and Twelve Million interest at the rate of 10%, plus post judgment interest at the rate of 18%, along with cost.

UNITED STATES FEDERAL DISTRICT COURT
For the
NORTHERN DISTRICT OF GEORGIA

The Defendant(s) recover nothing . the action be dismissed on the merits and the Plaintiff Glenn R Favre and Reference Top To Bottom Renovations, LLC, Favre & Bennett, LLC have shown cause, and now declared insolvent.

Plaintiff(s) \$112,000,000.00 for violation of 11 U.S.C. 362(b) for the willful intent to violate the 362(b) stay and any other remedies or relief the court deems just and proper.

The Defendant(s) violations of Involuntary Chapter 7 be respectfully, vacated, including all public records, and all cost cast upon the Defendant(s) in all states for failing to negotiate a settlement in good-faith.

FURTHERMORE. The Plaintiff, Glenn R. Favre prays for the all other relief, whether legal or equitable, to which Plaintiff is entitled for:

- actual damages based on the claims above;
- treble damages for deceptive practices;
- attorney fees;
- interest;
- court costs; and
- refer all actions by Defendant(s) to appropriate authorities and enforcement officials.

Respectfully Submitted: December 27, 2010



Glenn Royce Favre Pro-Se
P.O. Box 55064
Atlanta, Georgia 30308
404-951-0550
glenn.favre@t2bemc.com

Class
6

Stipulated Order

Other: Movant agrees to hold parties now and forever in connection with the 522(b)3 Order to Show Cause, Small Business Debtor's Reorganization Chapter 11, Movant's liability, or damages as a result of the Retro Active Civil False Claims Act (June 2008), Violations of Fed. Bank R. 2014. Full Disclosure and of Investment Banker's Interest in the Estate of an Organization during Chapter 11 Reorganization, the 362(b) Securities and Exchange Commission Automatic Stay re: Investment and Community Property vis-a-vi remains in effect as Favre & Bennett, LLC acts under Safe Harbor, discharging any and all claims, past present future, known and unknown, now and forever, individually and wholly.

The parties stipulate that the co-debtor(s) did appear (See FAR E.O.U.S.T) April 1, 2009 NDR Report Change. Publication of Debtor's Schedules during 522(b)3 exemptions. See Debtor's Schedules and Property Claimed as Exempt and Property Entitled to Debtor under 522(b)3; and

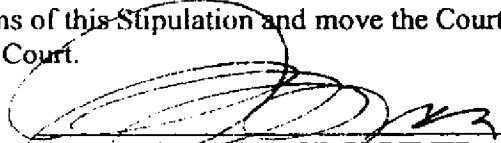
§ Movant's Motion does not seek relief from the co-debtor(s) stay;

§ The co-debtor stay remains in effect. 362(b) SEC Community Property Stay.

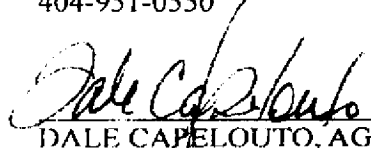
§ Debtor(s) have been identified as Victims and entitled to Restitution, including all offset of all Non-Dischargeable Debts Such as Wages, Salaries, Taxes and entitled to such assets under 522(b)3. Debtor(s) Demand is Governed by the Federal Contract Disputes Act and Civil Demand Procedure Rule for 60(b) Recovery and Collateral Preservation Conservation SBA 9006, and payment by the Treasury Offset & Asset Forfeiture Fund, maybe ordered by the Federal Management Service's Judgement Fund Branch (FMS BOS).

By their signatures below, the parties consent to the terms of this Stipulation and move the Court to enter an Order making this Stipulation and Order of the Court.

Respectfully Submitted, November 26, 2010



GLENN FAVRE, MGR PARTNER
Top To Bottom Renovations, LLC
P.O. Box 55064
Atlanta, GA 30308
404-951-0550



DALE CAPELOUTO, AGENT
Favre & Bennett, LLC
P.O. Box 55064
Atlanta, GA 30308
404-951-0550

MONICA GILROY, GA
Attorney for Movant (s) Advesary 09-9069
Advesary for 09-9075 - 085264-MHM

UNITED STATES FEDERAL DISTRICT COURT
For The
NORTHERN DISTRICT OF GEORGIA

THE UNITED STATES OF AMERICA	§	
(E.U.O.S.T.)	§	
Top to Bottom Renovations, LLC,	§	
EMC Search, LC, Favre & Bennett, LLC	§	Case No.
And Those Similarly Situated	§	1:10-CV-3757-TCB
	§	
V.	§	
	§	
GOLDMAN SACHS GROUP et al.	§	AMENDED
SUNTRUST MORTGAGE, OLD REPUBLIC	§	PETITION FOR
FIDELITY NATIONAL FINANCIAL,	§	PAYMENT OF
SUNTRUST ROBINSON HUMPHREY,	§	UNCLAIMED
SUNTRUST INVESTMENTS, SUNTRUST	§	FUNDS
BANK; MOVANT 26 AND ALL	§	
DEFENDANT(S) NAMED IN 08-85264-MHM	§	
09-9069 AND 09-9075	§	
=====	§	

AMENDED PETITION FOR PAYMENT OF UNCLAIMED FUNDS

COMES NOW, Glenn Royce Favre, request as Owner of Record or payment of Unclaimed Funds and entitled to relief and payment under 522(b) 3 files this Amended Petition for Payment of Unclaimed Funds and Proof of Claims for the Debtor(s):

The Debtor(s) Glenn Royce Favre - 562-79-8670	Chapter 7
Top to Bottom Renovations 20-2485058	Chapter 11
Favre & Bennett, LLC 20-2485025	Chapter 11
Dale Capelouto 575-13-2176	Chapter 11
Allen Scott Bennett -	Chapter 11

FB or MHM

09-09069 -	Glenn Royce Favre 562-79-8670
	Favre & Bennett, LLC 20-2485025
	Top To Bottom Renovations, LLC 20-2485058
	Dale Capelouto 575-13-2176
09-09070 -	Glenn Royce Favre - 562-79-8670
	Top To Bottom Renovations 20-2485058
	Dale Capelouto - 575-13-2176

UNITED STATES FEDERAL DISTRICT COURT
For The
NORTHERN DISTRICT OF GEORGIA

IN THE MATTER RE

The Debtor(s) Glenn Royce Favre - 562-79-8670	Chapter 7	§	
Top to Bottom Renovations 20-2485058	Chapter 11	§	Case No.:
Favre & Bennett, LLC 20-2485025	Chapter 11	§	1:10-CV-3757-TCB
Dale Capelouto 575-13-2176	Chapter 11	§	
Allen Scott Bennett -	Chapter 11	§	

DEBTOR(S)

09-09071 - Glenn Royce Favre - 562-79-8670
Top To Bottom Renovations 20-2485058
Dale Capelouto - 575-13-2176

09-09072 - Glenn Royce Favre - 562-79-8670
Top To Bottom Renovations 20-2485058
Dale Capelouto - 575-13-2176

09-09073 - Glenn Royce Favre - 562-79-8670
Top To Bottom Renovations 20-2485058
Dale Capelouto - 575-13-2176

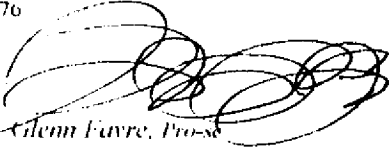
09-09074 - Glenn Royce Favre - 562-79-8670
Top To Bottom Renovations 20-2485058
Dale Capelouto - 575-13-2176

09-09075 - Glenn Royce Favre - 562-79-8670

09-09077 - Glenn Royce Favre - 562-79-8670
Top To Bottom Renovations 20-2485058
Dale Capelouto - 575-13-2176

Respectfully Submitted 12/27/2010

To: Treasury Offset Program
Attention: Ramona Elliott
Donald Wharton, Region 21
Executive Office of the Trustee's
Department of Justice
P: 202-456-2461


Glenn Favre, Pro-se
Managing Partner, Favre & Bennett, LLC
Top To Bottom Renovations, LLC
P. O. Box 55064
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404-951-0550
Glenn.favre@t2hemc.com

Case 1:10-cv-03761-TCB Document 2 Filed 11/22/10 Page 2 of 2

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I, Dale Caplan, am over the age of 18 years old at the time of this service, that a true and correct copy of the foregoing has been furnished by U.S. Mail with the correct postage and filed to GEORGIA BANKING AND FINANCE, JUDY NEW BERRY, COMMISSIONER, AND LATASHA ROSE, FEDERAL RESERVE BOARD & BOARD OF GOVERNORS FEDERAL RESERVE SYSTEM; MYRNA WHITEHEAD, SAFETY AND SOUNDNESS & JOE CASSAR & ERIN TERRY, Member Chairman, Shaprio & General Counsel Stephen Cohen, Securities Exchange Commission, and Enforcement, Commodities Future Trading Commission, Counsel Charles Ricci. FTC. Paula Steinberg, Investigator, Commissioner of Insurance Georgia. Office of General Counsel, Whitehouse: Fax: 202-456-2461, Consumer Financial Protection Agency (FTC)

NOVEMBER 16, 2009 NOTICE:

CEASE DECEIT ORDER BY GEORGIA BANKING AND FINANCE FIDELITY NATIONAL FOR
CONDUCTING BUSINESS AS MORTGAGE/BROKER DEALERS
SECURITIES BROKER/DEALERS AND ACTING AS A FINANCIAL LENDING INSTITUTION WITHOUT
LICENSE OR REGULATORS APPROVALS.

MONICA GILROY OF DICKENSON GILROY, LLC
FIDELITY NATIONAL FINANCIAL GROUP
FIDELITY NATIONAL LEGAL SERVICES
OLD REPUBLIC NATIONAL TILE INSURANCE
3780 MANSELL ROAD SUITE 140
ALPHARETTA GA 30022

MONICA GILROY OF DICKENSON GILROY, LLC
INVESTMENT BANKING CORPORATE COUNSEL
GOLDMAN SACHS, HOLDINGS, INC. SUNTRUST BANK HOLDINGS
SUNTRUST INVESTMENTS, SUNTRUST ROBINSON HUMPHREY'S GOLDMAN SACHS, HOLDINGS,
3780 MANSELL ROAD SUITE 140
ALPHARETTA GA 30022

Alice R. Honeycutt, Esquire,
Barbara White, Esq. and Tim Fisher
STEARNS WEAVER MILLER WISELERALHADEFF & SITTERSON, P.A.,
SUNTRUST BANK, INC.
SUNTRUST MORTGAGE, INC.
SUNTRUST FINANCIAL CENTER, Suite 2200
401 E. Jackson Street, P. O. Box 3299, Tampa,
FL 33601, and by facsimile to (813) 222-5089.

CHARLES K. MCKINIGHT, JR.
NATIONS, TOMAN & MCKINIGHT, LLP
1230 PEACHTREE STREET, NE
SUITE 2050
ATLANTA, GA 30309
404-266-2366
FAX: 404-266-2323
EMAIL: CMCKINIGHT@NTMLAW.COM

EXHIBIT A

EXHIBIT " A "

IN THE STATE COURT OF FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFICE
2010 MAY 20 PM 3:02

CLERK OF SUPERIOR COURT
FULTON COUNTY, GEORGIA

TOP TO BOTTOM RENOVATIONS,
LLC,

Plaintiff,

vs.

ERIC MILLER,

Defendant.

Civil Action File
No. 09VS160028-B

VERDICT AND FINAL JUDGMENT

This case having come on for a jury trial on May 17, 2010, the parties having appeared and having presented evidence and the jury, after hearing evidence, having rendered its verdict in favor of Plaintiff and against Defendant on the Complaint and in favor of Plaintiff on Defendant's Counterclaim, it is the Judgment of this Court as follows:

ORDERED that Plaintiff shall have judgment in its favor and against Defendant on the Complaint in the amount of \$ 11,855.00 actual damages and in the amount of \$ 11,190.00 attorneys fees and expenses of litigation; and it is further

ORDERED that Plaintiff shall have judgment in its favor and against Defendant on the Counterclaim; and it is further

ORDERED that costs are taxed against Defendant.

SO ORDERED, this 19 day of May, 2010.

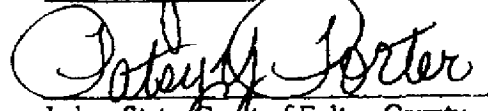

Judge, State Court of Fulton County

EXHIBIT A

EXHIBIT "B"

Case 08-85264-mhm Doc 1 Filed 12/09/08 Entered 12/09/08 13:06:22 Desc Main Document Page 23 of 62

B6C (Official Form 6C) (12/07)

In re Glenn Royce Favre

Case No. _____

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPTDebtor claims the exemptions to which debtor is entitled under
(Check one box)

- ☐ 11 U.S.C. § 522(b)(2)
☒ 11 U.S.C. § 522(b)(3)

☐ Check if debtor claims a homestead exemption that exceeds
 \$136,875

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Real Property			
house & lot @ 8240 Lakeview Court Rex, GA 30273	Ga. Code Ann. § 44-13-100(a)(1) Ga. Code Ann. § 44-13-100(a)(6)	10,000.00 505.00	130,000.00
house under construction & lot @ 1914 E. Columbus Drive Tampa, FL 33605	Ga. Code Ann. § 44-13-100(a)(6)	0.00	153,000.00
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
checking - Wachovia	Ga. Code Ann. § 44-13-100(a)(6)	25.00	25.00
Top to Bottom Renovations, LLC business checking - Wachovia	Ga. Code Ann. § 44-13-100(a)(6)	10.00	10.00
Top to Bottom Renovations, LLC business checking - Washington Mutual	Ga. Code Ann. § 44-13-100(a)(6)	0.00	0.00
checking - Washington Mutual	Ga. Code Ann. § 44-13-100(a)(6)	0.00	0.00
checking - Bank of America	Ga. Code Ann. § 44-13-100(a)(6)	0.00	0.00
savings - Wachovia	Ga. Code Ann. § 44-13-100(a)(6)	10.00	10.00
savings - Bank of America	Ga. Code Ann. § 44-13-100(a)(6)	50.00	50.00
Household Goods and Furnishings			
household goods	Ga. Code Ann. § 44-13-100(a)(4)	3,000.00	3,000.00
Books, Pictures and Other Art Objects, Collectibles			
paintings, books & cds	Ga. Code Ann. § 44-13-100(a)(4)	300.00	300.00
Wearing Apparel			
clothing	Ga. Code Ann. § 44-13-100(a)(4)	400.00	400.00
Furs and Jewelry			
jewelry	Ga. Code Ann. § 44-13-100(a)(5)	300.00	300.00
Firearms and Sports, Photographic and Other Hobby Equipment			
camera	Ga. Code Ann. § 44-13-100(a)(4)	500.00	500.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
IRA	Ga. Code Ann. § 44-13-100(a)(2.1)	90.00	90.00
Stock and Interests in Businesses			
Top to Bottom Renovations, LLC and Well Hung Galleries, Inc. - no cash value	Ga. Code Ann. § 44-13-100(a)(6)	0.00	0.00
Accounts Receivable			
Ken Krell	Ga. Code Ann. § 44-13-100(a)(6)	0.00	94,000.00

1 continuation sheets attached to Schedule of Property Claimed as Exempt

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Best Case Bankruptcy



Case 08-85264-mhm Doc 1 Filed 12/09/08 Entered 12/09/08 13:06:22 Desc Main Document Page 24 of 62

B6C (Official Form 67) (12/07) -- Cont.

In re Glenn Royce Favre

Case No. _____

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
John Macklin	Ga. Code Ann. § 44-13-100(a)(6)	0.00	8,000.00
Don Holt	Ga. Code Ann. § 44-13-100(a)(6)	0.00	35,000.00
Craig Dodd	Ga. Code Ann. § 44-13-100(a)(6)	0.00	10,000.00
Rodney Hinote	Ga. Code Ann. § 44-13-100(a)(6)	0.00	60,000.00
Kim Avant	Ga. Code Ann. § 44-13-100(a)(6)	0.00	6,000.00
Bill Morh	Ga. Code Ann. § 44-13-100(a)(6)	0.00	6,000.00
William Moon	Ga. Code Ann. § 44-13-100(a)(6)	0.00	15,000.00
Malissa Benton	Ga. Code Ann. § 44-13-100(a)(6)	0.00	5,000.00
<u>Other Contingent and Unliquidated Claims of Every Nature</u> possible legal action against Suntrust Mortgage, Inc. and Andre Keith Sanders for construction / mortgage scam	Ga. Code Ann. § 44-13-100(a)(11)(A)	100%	Unknown
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u> 2002 Ford F350	Ga. Code Ann. § 44-13-100(a)(3)	0.00	15,000.00
2008 Ford F150 Midbox	Ga. Code Ann. § 44-13-100(a)(3)	0.00	28,000.00
leased 2008 Ford F150 Lariat	Ga. Code Ann. § 44-13-100(a)(3)	0.00	36,000.00
<u>Machinery, Fixtures, Equipment and Supplies Used in Business</u> saws, ladders, paint sprayers, hand tools, nailguns, trailer & compressor	Ga. Code Ann. § 44-13-100(a)(7)	1,500.00	1,500.00

Total	16,690.00	605,185.00
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Sheet 1 of 1 continuation sheets attached to the Schedule of Property Claimed as Exempt

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Best Case Bankruptcy

EXHIBIT "C"

Certificate of Service Page 1 of 2
UNITED STATES BANKRUPTCY COURT

Northern District of Georgia
1340 Russell Federal Building
75 Spring Street, SW
Atlanta, GA 30303

IN THE MATTER OF
Glenn Royce Favre

Debtor(s),

CASE NUMBER.: 08-85264-mhm
CHAPTER: 7
JUDGE: Margaret Murphy

NOTICE OF FILING PROOF OF TRANSFER OF CLAIM

TO: 742543 193 PROPOSED TRANSFEROR and

laim to Gregory Hays PROPOSED TRANSFEREE

Pursuant to the Federal Rules of Bankruptcy Procedure, you are hereby notified of the filing of proof of transfer of the claim in the above-named case.

Objections to this transfer, if any must be filed with the

Clerk, U. S. Bankruptcy Court
1340 Russell Federal Building
75 Spring Street, SW
Atlanta, GA 30303

within 21 days from the date of this notice and a copy served upon the opposing party. If no objections are filed the transferee will be substituted as the claimant in this case.

Dated this December 16, 2009



M. Regina Thomas

Clerk of Court
U.S. Bankruptcy Court
Form 428

EXHIBIT C

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

ENTERED ON

JAN 14 2010

DOCKET

IN RE:) CHAPTER 7
GLENN ROYCE FAVRE,)
Debtor.) CASE NO. 08-85264 - MHM

ORDER DENYING PETITION FOR PAYMENT OF UNCLAIMED FUNDS

On December 11, 2009, Debtor filed a *Petition for Payment of Unclaimed Funds* [Doc. No 64] and on December 15, 2009, Debtor filed an amended *Petition for Payment of Unclaimed Funds* [Doc. No 66]. The blank for the date unclaimed funds were paid into the Registry was left blank. Debtor seeks payment of \$153,000 issued to Favre & Bennett, LLC. No unclaimed funds, however, have been paid into the Registry of this court; accordingly, it is hereby

ORDERED that Debtor's *Petition for Payment of Unclaimed Funds* [Doc. No 64] and amended *Petition for Payment of Unclaimed Funds* [Doc. No 66] are *denied*.

The Clerk is directed to serve this Order upon Debtor and Trustee.

IT IS SO ORDERED, this the 13th day of January, 2010.


MARGARET H. MURPHY
UNITED STATES BANKRUPTCY JUDGE

DATE: **FILED AUG 16 2010**
 Treasury Agency: **00001125**
 Case Number: **885264**
 Case Name: **FAVRE V SUNTRUST**

**Department of the Treasury
 Executive Office for Asset Forfeiture**

**Treasury Forfeiture Fund
 Member Agency Obligation Request Form**

This form is to be used by the TFF agencies to request an obligation on forfeited funds or proceeds of sale of forfeited property due to pending petitions, restoration, or other anticipated refunds pursuant to the *Guidelines for Treasury Forfeiture Fund Agencies on Refunds Pursuant to Court Orders, Petitions for Remission, or Restoration Requests*. This form and supporting documentation may be faxed to Toni Davis, TEOAF, at 202-622-9610, or emailed to Refund.Obligations@do.treas.gov.

Seizure Number(s)	Cash Receipt (CR) #	Amount Seized	Collect Date*	Forfeiture Date	DCR Date*	Amount to be Obligated
0007011425		150,000.00	4/9/2009	04/09/2009		153,000.00
Totals:						153,000.00

Reason for Obligation Request:

- ☒ Petition for Remission or Mitigation of Forfeiture filed (attach copy of petition if available)

Date filed: 12/01/2009

Petitioner(s): GLENN ROYCE FAVRE

Amount Sought (if known): \$153,000.00

- ☒ Restitution Order Sought or Entered, and AUSA has filed (or indicated he/she will file) a restoration request with the Department of Justice, Asset Forfeiture & Money Laundering Section (attach written supporting documentation of AUSA's filing of, or intent to file, a restoration request)

- ☒ Victim Case and at least one victim has been identified; Petition for Remission or Mitigation of Forfeiture anticipated to be filed.

Name of at least one victim: GLENN ROYCE FAVRE

FOR TEOAF USE ONLY

FUND: COST CENTER: 98999000
 FUND CENTER: MATERIAL GROUP: 4429 or 4425 ORDER: ZFX5
 FUNCTIONAL AREA: HQ01 AMOUNT:
 ORDER: ZFX5 SIGNATURE:

* The collect date is the date the funds were deposited into the suspense account. If the funds were never deposited into the CSA, for example, because they were directed to be paid to the registry of the court, use the seizure date. The DCR date is the date the funds were deposited into the Treasury Forfeiture Fund.

EXHIBIT "D"

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

DALE CAPELOUTO,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

)
)
)
)
)
)
)
)
)
)

**No. 10-823C
(Judge Bush)**

DEFENDANT'S MOTION TO DISMISS

**TONY WEST
Assistant Attorney General**

**JEANNE E. DAVIDSON
Director**

**ALAN J. LO RE
Assistant Director**

**ANTONIA R. SOARES
Trial Attorney
U.S. Department of Justice
Civil Division
Commercial Litigation Branch
1100 L Street, N.W.
Attn: Classification Unit, 8th Floor
Washington, D.C. 20530**

December 20, 2010

Attorneys for Defendant

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<u>Environmental Safety Consultants, Inc. v. United States,</u> 95 Fed. Cl. 77 (2010)	8
<u>Federico v. United States,</u> 70 Fed. Cl. 378 (2006)	10
<u>Henke v. United States,</u> 60 F.3d 795 (Fed. Cir. 1995)	6
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<u>Jachetta v. United States,</u> 94 Fed. Cl. 277 (2010)	9, 10, 11
<u>Khan v. United States,</u> 201 F.3d 1375 (Fed. Cir. 2000)	2, 3
<u>Loveladies Harbor, Inc. v. United States,</u> 27 F.3d 1545 (Fed. Cir. 1994)	10
<u>Lowe v. United States,</u> 76 Fed. Cl. 262 (2007)	10
<u>Massie v. United States,</u> 226 F.3d 1318 (Fed. Cir. 2000)	2

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-continued-

Cases	Page(s)
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<u>Mendez-Cardenas v. United States</u> , 88 Fed. Cl. 162 (2009)	6, 7
<u>Reynolds v. Army & Air Force Exch. Serv.</u> , 846 F.2d 746 (Fed. Cir. 1988)	6
<u>Rick's Mushroom Serv., Inc. v. United States</u> , 521 F.3d 1338 (Fed. Cir. 2008)	11
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<u>Terran v. Sec'y of Health and Human Servs.</u> , 195 F.3d 1302 (Fed. Cir. 1999)	2
<u>Tohono O'Odham Nation v. United States</u> , 559 F.3d 1284 (Fed. Cir. 2009), <u>cert. granted</u> , - U.S. -, 130 S.Ct. 2097 (2010)	10
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IN THE UNITED STATES COURT OF FEDERAL CLAIMS

DALE CAPELOUTO,)	
)	
Plaintiff,)	
)	
v.)	No. 10-823C
)	(Judge Bush)
UNITED STATES,)	
)	
Defendant.)	

DEFENDANT'S MOTION TO DISMISS

Pursuant to Rule 12(b)(1) of the Rules of the United States Court of Federal Claims ("RCFC"), defendant, the United States respectfully requests that the Court dismiss the pro se complaint filed by plaintiff, Dale Capelouto, for lack of subject matter jurisdiction. In support of this motion, defendant relies upon the complaint and the following memorandum of law.

ISSUES PRESENTED

1. Whether this Court possesses subject matter jurisdiction to entertain Mr. Capelouto's complaint, which alleges no claims against the United States for money damages.
2. Whether this Court possesses subject matter jurisdiction to entertain Mr. Capelouto's tort claims.
3. Whether this Court possesses subject matter jurisdiction to entertain an action identical to an action Mr. Capelouto commenced in the United States District Court for the Northern District of Georgia.

STATEMENT OF THE CASE

I. **Nature Of The Case**

Mr. Capelouto's complaint, which is a compilation of nine separate documents, does not

allege claims for money damages against the United States in this Court or otherwise explain the basis for this Court's subject matter jurisdiction. Rather, the submission alleges tort claims against private parties, and includes a complaint filed in the United States District Court for the Northern District of Georgia under docket number 10-CV-3761 and an amended complaint that indicates it was filed on November 17, 2010 in the Northern District of Georgia under docket number 10-CV-03561. As we demonstrate below, the Court should dismiss Mr. Capelouto's complaint in this matter.

II. Statutory Framework

Like all Federal courts, this Court is a court of limited jurisdiction. Massie v. United States, 226 F.3d 1318, 1321 (Fed. Cir. 2000). This Court's jurisdiction is delimited by the Tucker Act, which provides:

The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort.

28 U.S.C. § 1491(a)(1); see Khan v. United States, 201 F.3d 1375, 1377 (Fed. Cir. 2000)

(discussing same). The Supreme Court has interpreted the Tucker Act to mean that a plaintiff seeking relief from this Court must assert a claim for "actual, presently due money damages from the United States." Terran v. Sec'y of Health and Human Servs., 195 F.3d 1302, 1309 (Fed. Cir. 1999) (quoting United States v. King, 395 U.S. 1, 3 (1969)).

The Tucker Act "is itself only a jurisdictional statute; it does not create a substantive right enforceable against the United States for money damages." In re United States, 463 F.3d 1328,

1333 (Fed. Cir. 2006) (quoting United States v. Testan, 424 U.S. 392, 398 (1976)); accord Khan, 201 F.3d at 1377. Rather, invoking jurisdiction under the Tucker Act requires that a plaintiff “identify a contractual relationship, constitutional provision, statute, or regulation that provides a substantive right to money damages.” Id. (citing Hamlet v. United States, 63 F.3d 1097, 1101 (Fed. Cir. 1995)). Thus, a Tucker Act plaintiff “must assert a claim under a separate money-mandating constitutional provision, statute, or regulation, the violation of which supports a claim for damages against the United States.” Id. at 1378. “A substantive law is money-mandating only if it ‘can fairly be interpreted as mandating compensation by the Federal Government for the damage sustained.’” In re United States, 463 F.3d at 1333 (quoting United States v. Mitchell, 463 U.S. 206, 217 (1983)).

III. Statement Of Facts

Mr. Capelouto’s complaint is comprised of nine documents, none of which demonstrate the Court’s jurisdiction to entertain this matter. The first document in Mr. Capelouto’s submission, which does not bear a case caption, is an unsigned letter from Glenn Favre to the Tampa Office of the Federal Bureau of Investigation (“FBI”), and sets forth Mr. Favre’s allegations against individuals and entities for mortgage fraud and theft. The letter is not co-signed by Mr. Capelouto and does not make any reference to him.

The second document in Mr. Capelouto’s submission is a June 19, 2008 press release regarding the Department of Justice and FBI’s efforts to prosecute mortgage fraud and mortgage-related securities fraud.

The third document in Mr. Capelouto’s submission is a Form 211 issued by the Internal Revenue Service (“IRS”) of the Department of the Treasury (“Treasury”). The form is entitled

“Application for Award for Original Information.” The IRS Form 211 is used by individuals seeking monetary awards from the Federal Government for bringing tax-law violators to the attention of the IRS. See Whistleblower – Informant Award, <http://www.irs.gov/compliance/article/0,,id=180171,00.html> (last visited Dec. 13, 2010). The form indicates that Mr. Capelouto, Mr. Favre and Allen Scott Bennett sought to be considered whistleblowers in connection with tax violations by several financial entities. The fourth document in Mr. Capelouto’s submission is a letter from the IRS, dated August 11, 2009, acknowledging the receipt of the IRS Form 211 and indicating that the form will be evaluated to determine if an investigation is warranted and an award is appropriate.

The fifth document in Mr. Capelouto’s submission is a pro se complaint filed by Messrs. Capelouto and Favre on November 16, 2010 in the United States District Court for the Northern District of Georgia under case number 10-CV-3761.¹ Defendants are the United States Department of Energy (“DOE”), Oak Ridge Office; Office of Inspector General (“OIG”) for South East Financial Crimes; the United States District Court for the Eastern District of Tennessee; Eric Dugger, Special Agent, OIG, DOE; David Harris, Special Agent, OIG, DOE; and the Honorable C. Clifford Shirley, Jr., United States Magistrate Judge. In the complaint, Messrs. Capelouto and Favre allege that defendants engaged in tortious conduct by covering up mortgage and financial fraud by various financial entities and individuals — namely, the torts of negligent misrepresentation and issuing an illegal search and seizure warrant. For damages, Messrs. Capelouto and Favre seek hundreds of millions of dollars.

The sixth document in Mr. Capelouto’s submission is an amended complaint, also filed in

¹ In the complaint caption, Mr. Capelouto’s surname is spelled “Capelout.”

the Northern District of Georgia by Messrs. Capelouto and Favre as pro se plaintiffs. The amended complaint is styled as a "Complaint For Negligence Under Federal Employers' Liability Act," is dated November 17, 2010, and bears the docket number 10-CV-03561. According to the caption, Messrs. Favre and Capelouto have brought this action against the Department of Defense ("DOD") and the Defense Contract Management Agency, as well as others not identified. We have been unable to locate information regarding this action through the PACER system.²

The seventh document in Mr. Capelouto's submission is a case summary from the CM/ECF system, indicating that Messrs. Capelouto and Favre's cause of action under case number 10-CV-03761 in the Northern District of Georgia alleges a claim against United States Government defendants under the Federal Tort Claims Act, 28 U.S.C. § 1346(b).

The eighth document in Mr. Capelouto's submission is a November 29, 2010 invoice from EMC Search to Suntrust Bank Holdings, Inc. and Suntrust Mortgage, Inc. The invoice reflects that EMC Search seeks payment of \$432,300 for "Non-Legal Professional Services," "Technical Financial Management Auditing," "Subcontractor Contract and Grant Management," and "C.I.D. Attorney General Appointment." The invoice also indicates that payment should be made to Mr. Capelouto.

The final document in Mr. Capelouto's submission is a Treasury form entitled "Request For Reimbursement Of Joint Operations Expenses." The form indicates that Mr. Capelouto is seeking total reimbursement in the amount of \$169,700 for overtime and expenses in his capacity

² The action appearing under docket number 10-CV-03561 in the Northern District of Georgia is captioned as Cheek v. City of Union City and involves a claim of employment discrimination based upon race.

as a contract officer for the Department of Defense – DCMA. Although the form governs a reimbursement request for the period from January 1, 2008 through April 1, 2010. Mr. Capelouto apparently signed the document on November 29, 2010.

ARGUMENT

I. Mr. Capelouto's Claims Should Be Dismissed For Lack Of Subject Matter Jurisdiction

Determining whether this Court possesses jurisdiction to entertain a claim is a “threshold” inquiry. See Steel Co. v. Citizens for a Better Env't, 523 U.S. 83, 88-89 (1998) (holding that subject-matter jurisdiction is a “threshold question that must be resolved . . . before proceeding to the merits”). In considering a motion to dismiss for lack of subject matter jurisdiction pursuant to RCFC 12(b)(1), the Court must “assume all factual allegations to be true and . . . draw all reasonable inferences in plaintiff’s favor.” Henke v. United States, 60 F.3d 795, 797 (Fed. Cir. 1995).

Plaintiff bears the burden of establishing, by a preponderance of the evidence, that this Court possesses subject matter jurisdiction to entertain the action. McNutt v. General Motors Acceptance Corp., 298 U.S. 178, 189 (1936); Reynolds v. Army & Air Force Exch. Serv., 846 F.2d 746, 748 (Fed. Cir. 1988); Mendez-Cardenas v. United States, 88 Fed. Cl. 162, 165 (2009). While complaints filed by pro se plaintiffs “are generally held to ‘less stringent standards than formal pleadings drafted by lawyers,’ . . . [t]his latitude . . . does not relieve a pro se plaintiff from meeting jurisdictional requirements.” Id.

For several reasons, Mr. Capelouto has failed to meet his burden of establishing jurisdiction under the Tucker Act.

A. This Court Does Not Possess Jurisdiction To Hear Mr. Capelouto's Claims Against Private Parties

As stated above, the first page of Mr. Capelouto's complaint is a letter from Mr. Favre to the FBI's Tampa Division, alleging that Mr. Favre is a victim of mortgage fraud and theft carried out by Andre Sanders, Inc.; Urban Craftsman Homes of Florida, LLC; George H. McKelvin, III; and Denny Sanders Construction, Inc. Compl. at 1. Mr. Capelouto's signature does not appear on the letter, and the letter makes no reference to him. Even assuming that Mr. Capelouto intends to adopt Mr. Favre's claims and requests for relief as the basis for an action here, this Court does not possess jurisdiction to entertain such an action because such claims are not being brought against the United States.

Under the Tucker Act, this Court's jurisdiction is confined to entertaining claims against the United States, not against private parties. See United States v. Sherwood, 312 U.S. 584, 588 (1941) (holding that "if the relief sought is against others than the United States the action as to them must be ignored as beyond the jurisdiction of the court"); Mendez-Cardenas, 88 Fed. Cl. at 166 ("This court lacks jurisdiction to hear plaintiff's claims against defendants other than the United States."); Edelmann v. United States, 76 Fed. Cl. 376, 380 (2007) ("To the extent plaintiffs are alleging claims against the private parties and not the United States, the Court lacks subject matter jurisdiction over such claims.") (citing cases).

Because Mr. Capelouto's complaint in this Court is devoid of any claims against the United States, this Court does not possess subject matter jurisdiction to hear his action. Accordingly, Mr. Capelouto's complaint should be dismissed.

B. This Court Does Not Possess Jurisdiction To Hear Mr. Capelouto's Tort Claims

On the first page of his complaint, Mr. Capelouto alleges mortgage fraud and theft. Even assuming Mr. Capelouto had alleged such claims against the United States, this Court does not possess jurisdiction to entertain such claims because they sound in tort.

As provided expressly in the Tucker Act, this Court's jurisdiction does not extend to tort claims. See 28 U.S.C. § 1491(a)(1) (providing jurisdiction over claims for damages "not sounding in tort"); see also Trafny v. United States, 503 F.3d 1339, 1340 (Fed. Cir. 2007); Brown v. United States, 105 F.3d 621, 623 (Fed. Cir. 1997); Hufford v. United States, 87 Fed. Cl. 696, 706 (2009) (citing cases). Tort claims against the United States may be brought only in United States District Courts under the Federal Tort Claims Act, 28 U.S.C. § 1346(b)(1). See, e.g., Bowling v. United States, 93 Fed. Cl. 551, 556 (2010) ("The proper forum for federal tort claims is a United States district court.") (citing 28 U.S.C. § 1346(b)(1)); id. ("Under 28 U.S.C. § 1346(b)(1), United States district courts have exclusive jurisdiction to hear tort claims against the United States, including all [Federal Tort Claims Act] claims.").

"A claim for fraud is a claim sounding in tort and therefore cannot be considered by the Court of Federal Claims." Environmental Safety Consultants, Inc. v. United States, 95 Fed. Cl. 77, 96 (2010) (citing cases). Furthermore, Mr. Capelouto's theft claim sounds in tort. See Husband v. United States, 90 Fed. Cl. 29, 35 (2009) (holding that the Court of Federal Claims does not possess jurisdiction to hear a theft claim because such a theory sounds in tort). Thus, this Court does not possess jurisdiction to hear Mr. Capelouto's claims for mortgage fraud and theft because the claims sound in tort.

C. This Court Does Not Possess Jurisdiction To Hear Claims Identical To Mr. Capelouto's Earlier-Filed Claims In District Court

Among Mr. Capelouto's submissions is a complaint against DOE and other Federal Government entities and officials filed last month in the United States District Court for the Northern District of Georgia under docket number 10-CV-03761, as well as an amended complaint against DOD and others that does not appear to have been filed and bears docket number 10-CV-03561. Both the complaint and amended complaint allege several tort claims against United States Government entities and Federal officials. It is unclear whether Mr. Capelouto seeks to bring the same actions in this Court.

In the event Mr. Capelouto seeks to bring the claims under docket number 10-CV-03761 here, this Court does not possess jurisdiction to entertain such an action for two reasons. First, pursuant to 28 U.S.C. § 1500, this Court may not exercise jurisdiction over a claim if the same claim is pending against the United States in another forum at the time the complaint is filed here. Section 1500 provides:

The United States Court of Federal Claims shall not have jurisdiction of any claim for or in respect to which the plaintiff or his assignee has pending in any other court any suit or process against the United States or any person who, at the time when the cause of action alleged in such suit or process arose, was, in respect thereto, acting or professing to act, directly or indirectly under the authority of the United States.

28 U.S.C. § 1500. "[T]he purpose of section 1500 is to protect the United States from having to defend against the same claim in two different courts at the same time." Jachetta v. United States, 94 Fed. Cl. 277, 281 (2010).

In order to determine whether section 1500 applies, the Court "must make two inquiries:

first, whether the newly filed claims arise from the same set of operative facts and seek the same relief as the earlier-filed claims and second, whether the earlier-filed claims are in fact pending in another forum.” Id. at 281-82 (citing Tohono O’Odham Nation v. United States, 559 F.3d 1284, 1287-88 (Fed. Cir. 2009), cert. granted, – U.S. –, 130 S.Ct. 2097 (2010); Loveladies Harbor, Inc. v. United States, 27 F.3d 1545, 1551 (Fed. Cir. 1994)). Thus, if Mr. Capelouto seeks to bring the same claims and to seek the same relief in this Court that he is seeking in the Northern District of Georgia, section 1500 bars this Court from exercising jurisdiction to hear such an action. See Jachetta, 94 Fed. Cl. at 281-82 (holding this Court does not possess jurisdiction to hear claims filed by plaintiff in this Court in light of identical earlier-filed claims in district court); see also Trusted Integration, Inc. v. United States, 93 Fed. Cl. 94, 98-104 (2010) (holding plaintiff’s suit must be dismissed pursuant to section 1500 because this suit is based upon the same claim as plaintiff’s claim in district court and seeks the same type of relief).

Further, even if Mr. Capelouto’s 10-CV-03761 action were not pending in the Northern District of Georgia, this Court would lack jurisdiction to entertain it. In that complaint, Messrs. Capelouto and Favre alleged that the United States Government defendants engaged in the torts of negligent misrepresentation and issuing an illegal search and seizure warrant. Negligent misrepresentation sounds in tort and, accordingly, this Court lacks jurisdiction to hear such a claim. See Federico v. United States, 70 Fed. Cl. 378, 387 (2006) (holding that the Court did not possess jurisdiction to hear tort claims of intentional and negligent misrepresentations). Their claim regarding the issuing of an illegal search and seizure warrant amounts to an abuse of process claim, which also sounds in tort and, accordingly, is beyond this Court’s jurisdiction. See Lowe v. United States, 76 Fed. Cl. 262, 265-66 (2007) (holding that the Court does not

possess jurisdiction to entertain plaintiff's abuse of process claim and other claims because they sound in tort).³

As for the amended complaint against DOD and DCMA filed under Northern District of Georgia docket number 10-CV-03561, we have been unable to locate case information about this action through the PACER system. An unrelated case is docketed under that number. As discussed above, if Mr. Capelouto has in fact brought that action — a negligence claim — in the Northern District of Georgia, he is barred from bringing it here pursuant to 28 U.S.C. § 1500. See, e.g., Jachetta, 94 Fed. Cl. at 281. Again, even if Mr. Capelouto seeks to bring the negligence claim for the first time in this Court, it does not possess jurisdiction to entertain it because such a claim sounds in tort. See, e.g., Rick's Mushroom Serv., Inc. v. United States, 521 F.3d 1338, 1343 (Fed. Cir. 2008) (holding that the Court of Federal Claims did not err in concluding that it lacked subject matter jurisdiction to hear plaintiff's professional negligence claim).

CONCLUSION

For the reasons stated above, we respectfully request that the Court dismiss plaintiff's complaint.

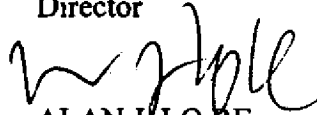
Respectfully submitted,

TONY WEST
Assistant Attorney General

³ Abuse of process is defined as “[t]he improper and tortious use of a legitimately issued court process to obtain a result that is either unlawful or beyond the process’s scope.” Black’s Law Dictionary 10 (7th ed. 1999).

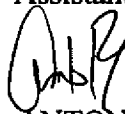
JEANNE E. DAVIDSON

Director



ALAN J. LORE

Assistant Director



ANTONIA R. SOARES

Trial Attorney

U.S. Department of Justice

Civil Division

Commercial Litigation Branch

1100 L St., NW, Room 11058

Attn: Classification Unit, 8th Floor

Washington, DC 20530

Telephone: (202) 305-7405

Facsimile: (202) 514-7965

December 20, 2010

Attorneys for Defendant

CERTIFICATE OF FILING

I certify under penalty of perjury that, on this the 20th day of December, 2010, I caused to be served via first-class mail, postage-prepaid, "DEFENDANT'S MOTION TO DISMISS," as follows:

Dale Capelouto
P.O. Box 55064
Atlanta, GA 30308


Estelle Brown

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Glenn Royce Favre, et. al.

DEFENDANTS

Movant 26 08-AP-09-9069/9075 Enjoined By All Defendants Named in 08-BK-85264-MHM

(b) County of Residence of First Listed Plaintiff Fulton
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

TCB

(c) Attorney's (First Name, Address, and Telephone Number)

United State of America

(E.U.O.S.T)

202-256-5600

Attorneys (If Known)

MONICA GILROY, Corporate Counsel SunTrust Mortgage, Old
TINA FISHER, Corporate Counsel, Republic, SunTrust Bank Holdings
ALICE HUNEYCUIT, Fidelity Financial Services, Goldman Sachs Gr.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	PROPERTY/REALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Engr. Rat. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SPECIAL STATUTES <input type="checkbox"/> 861 HRA (1976) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX MATTERS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Re-apportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Net TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge (2 USC 3410) <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISON PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

522 (b) 3

Brief description of cause:

CIVIL R.I.C.O., Other Fraud, Willful Malicious Intent To Harm Borrowers, Retro Active Civil False Claims.

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
700,000,000.00
 CHECK YES only if demanded in complaint:
 JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE MARGARET MURPHY

DOCKET NUMBER 08-BK-85264-MHM

DATE

10/28/2010

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

TCB

1.00

12/19/10

NORTHERN District Of GEORGIA

Adv. Proc. No. 08-85264-MHM

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